IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

Case No.:

Tiffany Aguilera and Dianett Kardoch, Plaintiffs, v. David & Anne Trufant, Inc. d/b/a Camp Kahdalea & Chostaonga, David Trufant, and Anne Trufant, Defendants.	)	**COMPLAINT** **(Jury Trial Requested)**

Now comes the Plaintiffs, by and through counsel, and say and allege as follows:

PARTIES

1. Plaintiff Tiffany Aguilera is a citizen and resident of the State of Connecticut. She is currently 19 years old. At the time of the incidents described herein, Plaintiff Tiffany Aguilera was an unemancipated minor child.

2. Plaintiff Dianett Kardoch is a citizen and resident of the State of Connecticut. She is the biological mother of Plaintiff Tiffany Aguilera.

3. Defendant David & Anne Trufant, Inc. d/b/a Camp Kahdalea & Chostaonga is a corporation, organized under the laws of the State of North Carolina. Defendant David & Anne Trufant, Inc. d/b/a Camp Kahdalea & Chostaonga's registered agent for service of process is David Trufant, who is located at 2500 Morgan Mill Road, Brevard, North Carolina 28712.

4. Defendant David Trufant is a citizen of North Carolina and resides in Transylvania County. Upon information and belief, Defendant's address for service of process is 2500 Morgan Mill Road, Brevard, North Carolina 28712.

5. Defendant Anne Trufant is a citizen of North Carolina and resides in Transylvania County. Upon information and belief, Defendant's address for service of process is 2500 Morgan Mill Road, Brevard, North Carolina 28712.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter pursuant to 28 U.S. C. § 1332 because there is diversity of citizenship between the Plaintiffs and Defendant and the matter in controversy exceeds the sum of $75,000.00, exclusive of interest, attorney's fees and costs.

7. Venue is proper in the United States District Court for the Western District of North Carolina, Asheville Division, because at least one Defendant resides in this District and because the events giving rise to the basis of the underlying actions occurred in this District.

FACTS

8. Defendants own, operate, control, and/or otherwise maintain a residential summer camp doing business as Camp Kahdalea, which is located at 2500 Morgan Mill Road, Brevard, North Carolina 28712.

9. Defendants promote this camp as a place where young women are part of a camp family where they are carefully taught new disciplines and skills to enhance self-esteem.

10. Defendants' camp includes week-long programs for high school students.

11. Plaintiff Tiffany Aguilera attended the Defendants' summer camp during August of 2014.

12. Upon information and belief, Defendants failed to implement sufficient policies and procedures to promote the safety of campers like the Plaintiff consistent with the standards of the camping industry. In addition and/or in the alternative, Defendants failed to sufficiently train their employees and staff in the Defendants' own policies and procedures as were otherwise consistent with the standards of the camping industry.

13. On or about August 14, 2014, Defendants by and through their agents and/or employees, planned, organized, and/or supervised an event where campers would jump from a cliff, thirty-five (35) feet high, into a body of water below.

14. Defendants knew or should have known of the risks of jumping into a natural body of water, including the presence of hard objects like rocks, logs, or the river's bottom.

15. Jumping off of a cliff was promoted and encouraged by Defendants' camp staff.

16. Defendants failed to adequately train, supervise, and/or protect campers participating in this event.

17. Defendants knew or should have known that cliff jumping from a height of thirty-five (35) feet was likely to cause serious injury such as concussions, fractures, broken bones, injured discs, spinal cord damage, paralysis, and even death.

18. As instructed by three (3) camp counselors participating in the event, Plaintiff Tiffany Aguilera jumped off of the thirty-five (35) foot high cliff into the body of water. When she landed in the water, her buttocks struck a rock which was just below the water's surface. She immediately lost feeling and movement in her legs, and experienced excruciating pain in her lower back. She required assistance getting out of the water.

19. Defendants and their staff provided substandard and dangerous medical assistance following Plaintiff's injury. Defendants' staff carried Plaintiff "piggy back" style back to the camp's main facility. She was not immobilized at the location of the accident, as should have been the case. Although she was briefly examined at the camp, no x-rays were taken and no emergency medical treatment was provided. Instead, Plaintiff was released from camp the next day and rode over fourteen hours in a car to return home. Plaintiff's parents immediately took her to the emergency department at Midstate Medical Center. She was subsequently transferred to Hartford Hospital where it was determined she suffered a trauma to her lower spine. She was hospitalized for three days and subsequently underwent surgery.

20. Plaintiff Tiffany Aguilera suffered serious and permanent personal injuries. She was hospitalized, underwent surgery, and has endured a long and difficult recovery. She has incurred substantial medical expenses, endured pain and suffering, and emotional distress. Therefore, Plaintiff has suffered damages in excess of $10,000.00.

21. Plaintiff Dianett Kardoch incurred medical expenses related to the care and treatment of her daughter, Tiffany Aguilera. Plaintiff Dianett Kardoch further endured emotional distress over her daughter's injuries. Therefore, Plaintiff Dianett Kardoch has suffered damages in excess of $10,000.00.

22. At all times alleged in this Complaint, the agents and or employees of the Defendants were acting within the course and scope of their employment so that their actions, inactions, deeds, misdeeds, and negligence is and should be imputed to the named Defendants under the law of agency and the doctrine of *respondeat superior*. Additionally and/or alternatively, Defendants had the duty to control, supervise, monitor, and be responsible for other individuals, providers,

and/or borrowed servants acting under the control and supervision of its employees and/or agents. Therefore, the actions, inactions, deeds, misdeeds, and negligence of these borrowed servants is and should be imputed to the named Defendants under the law of agency and the doctrines of *respondeat superior*, ratification and/or condonation.

FIRST CLAIM FOR RELIEF
(Negligence)

23. Plaintiffs incorporate by reference and thus re-allege each of the prior allegations contained in paragraphs 1 through 22.

24. At all times alleged in this Complaint, the Defendants individually and through their agents and employees, owed Plaintiff Tiffany Aguilera a duty of care to act reasonably under the circumstances and as otherwise provided by law. Defendants breached this duty, and thus acted negligently by:

    a. Creating a dangerous environment that exposed Plaintiff and other campers to an unreasonable risk of harm;

    b. Allowing campers to jump from a cliff at a height of thirty-five feet into a source of water with an unknown depth and unknown dangers;

    c. Encouraging campers to jump from a cliff at a height of thirty-five feet into a source of water with an unknown depth and unknown dangers;

    d. Failing to adequately instruct and/or supervise campers in participating in the event that caused Plaintiff's injury;

    e. Failing to detect the hazardous condition created by the rock that was beneath the water's surface;

f. Failing to warn of the hazardous condition created by the rock that was beneath the water's surface when Defendants' agents and employees knew or should have reasonably known of the hazard's existence;

g. Failing to remove the hazardous condition created by the rock beneath the water's surface that made the area dangerous and unsafe;

h. Failing to enforce, adhere to, or comply with one or more of the standards, rules, regulations, policies, procedures, protocols, or manual provisions then in effect and applicable to Defendants and their staff;

i. Failing to adhere to the standards of care applicable to summer camps in the same or similar communities with the same or similar equipment, facilities, and staff;

j. Failing to provide Plaintiff with sufficient medical treatment following her injury;

k. Delaying the medical treatment that was necessary to treat Plaintiff's injury;

l. Failing to adequately train its employees to supervise, monitor, or oversee events involving campers like Plaintiff when Defendants knew or should have known that such substandard training needlessly increased the risk of harm to campers;

m. Failing to exercise ordinary care in the oversight and supervision of its employees, staff, and agents; or

n. Acting in other negligent ways not expressed in this Complaint, but that may be demonstrated at trial.

25. It was reasonably foreseeable that the Defendants' negligence as described herein would cause Plaintiff harm, and Defendants' negligence did, in fact, cause Plaintiff harm.

26. As a direct and proximate result of Defendants' negligence, Plaintiff Tiffany suffered serious and permanent personal injuries. She was hospitalized, underwent surgery, and has endured a long and difficult recovery. She has incurred substantial medical expenses, endured pain and suffering, and emotional distress. Therefore, Plaintiff has suffered damages in excess of $10,000.00.

27. As a direct and proximate result of Defendants' negligence, Plaintiff Dianett Kardoch incurred medical expenses related to the care and treatment of her daughter, Tiffany Aguilera. Plaintiff Dianett Kardoch further endured emotional distress over her daughter's injuries. Therefore, Plaintiff Dianett Kardoch has suffered damages in excess of $10,000.00.

SECOND CLAIM FOR RELIEF
(Corporate Negligence as to Defendant David & Anne Trufant, Inc. d/b/a Camp Kahdalea & Chostaonga)

28. Plaintiff incorporates by reference and re-alleges each of the prior allegations as if fully set forth herein.

29. Defendants owed Plaintiffs a legal duty to act reasonably under the circumstances. Defendants breached this duty and thus acted negligently by:

    a. Failing to enforce, adhere to, or comply with one or more of the standards, rules, regulations, policies, procedures, protocols, or manual provisions then in effect and applicable to Defendant;

    b. Failing to have in effect one or more proper standards, rules, regulations, policies, procedures, protocols, or manual provisions for the health, wellbeing, and/or protection of campers when the Defendant knew or should have known that the failure to have such policies needlessly increased the risk of harm to campers like Tiffany Aguilera;

c. Failing to properly supervise, monitor, or oversee camp events, including the event injuring Plaintiff;

d. Failing to hire sufficient staff to supervise, monitor, or oversee the care of campers when the Defendant knew or should have known that the failure to have such oversight needlessly increased the risk of harm to campers such as Tiffany Aguilera;

e. Failing to adequately train staff to supervise, monitor, or oversee see the care of campers when the Defendant knew or should have known that such substandard training needlessly increased the risk of harm to patients; or

f. Acting in such other negligent ways as may be demonstrated through discovery or a trial on this matter.

30. It was reasonably foreseeable that the Defendant's corporate negligence as described herein would cause Plaintiff harm, and Defendant's corporate negligence did, in fact, cause Plaintiff harm.

31. As a direct and proximate result of Defendant's corporate negligence, Plaintiff Tiffany suffered serious and permanent personal injuries. She was hospitalized, underwent surgery, and has endured a long and difficult recovery. She has incurred substantial medical expenses, endured pain and suffering, and emotional distress. Therefore, Plaintiff has suffered damages in excess of $10,000.00.

32. As a direct and proximate result of Defendant's corporate negligence, Plaintiff Dianett Kardoch incurred medical expenses related to the care and treatment of her daughter, Tiffany Aguilera. Plaintiff Dianett Kardoch further endured emotional distress over her daughter's injuries. Therefore, Plaintiff Dianett Kardoch has suffered damages in excess of $10,000.00.

WHEREFORE, Plaintiffs demand judgment, jointly and severally from the Defendants as follows:

A. In an amount exceeding $10,000.00 as to each claim for relief;

B. For a trial by jury on all the issues;

C. For all costs incurred in bringing this action, including pre-judgment and post-judgment interest and a reasonable attorney's fee as provided by law;

D. For such other and further relief as this Court may deem just and equitable.

Respectfully submitted, this 28th day of June 2017.

/s/ Marcus R. Carpenter
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